IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

APPEAL NO.398 OF 2006
IN
SUIT NO.2750 OF 1985.

The Board of Trustees of the Port of Mumbai. .. Appellant

Vs.

Associated Pulp & Papers Mills Ltd. & Anr. .. Respondents

Mr.U.J.Makhija i/b. Mulla & Mulla for the Appellant.
Mr.Sanjeev Singh i/b. Narichania & Narichania for Respondent No.1.

CORAM : DR.S.RADHAKRISHNAN & S.J.VAZIFDAR, JJ.

DATE : 1ST AUGUST, 2006.

P.C.:

1. Heard the learned Counsel for the Appellant and the learned Counsel for Respondent No.1. The learned Counsel for the Appellant seeks leave to delete Respondent No.2 being the Original Defendant No.2. Leave granted. Respondent No.2 stands deleted.

2. Appeal is admitted. The learned Counsel for Respondent No.1 waives service. By consent, taken up for final hearing. By this Appeal, the Appellant is challenging the order dated 22nd July, 2005, whereby the Learned Single Judge had decreed the suit on the ground of non filing of Written Statement under order VIII Rule 10 of the Code of Civil Procedure.

3. After hearing both the parties for some time, the learned Counsel for Respondent No.1 fairly states that Respondent No.1 is agreeable for setting aside the impugned order dated 22nd July, 2005 and for restoration of suit bearing No.2750 of 1985. Accordingly, the impugned order dated 22nd July, 2005 stands setaside and suit bearing No.2750 of 1985 stands restored. The Appellant shall file Written Statement within a period of three weeks from today. Suit to proceed in accordance with law. Accordingly, Appeal stands disposed of.

(DR.S.RADHAKRISHNAN,J.)

(S.J.VAZIFDAR,J.)